

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NATURAL RESOURCES DEFENSE
COUNCIL, CENTER FOR BIOLOGICAL
DIVERSITY, CONSUMER FEDERATION OF
AMERICA, MASSACHUSETTS UNION OF
PUBLIC HOUSING TENANTS, PUBLIC
CITIZEN, and SIERRA CLUB,

Plaintiffs,

and

ASSOCIATION OF HOME APPLIANCE
MANUFACTURERS, and AIR-
CONDITIONING, HEATING &
REFRIGERATION INSTITUTE,

Plaintiff-Intervenors,

v.

JENNIFER M. GRANHOLM, as Secretary Of
The United States Department Of Energy, and
UNITED STATES DEPARTMENT OF
ENERGY,

Defendants.

20 Civ. 9127 (JMF)

STIPULATION AND ORDER

STATES OF NEW YORK, CALIFORNIA,
COLORADO, CONNECTICUT, ILLINOIS,
MAINE, MARYLAND, MINNESOTA, NEW
JERSEY, OREGON, VERMONT, AND
WASHINGTON, COMMONWEALTH OF
MASSACHUSETTS, PEOPLE OF THE
STATE OF MICHIGAN, DISTRICT OF
COLUMBIA, CITY OF NEW YORK,
COMMONWEALTH OF PENNSYLVANIA,
AND STATES OF NEVADA AND NEW
MEXICO,

Plaintiffs,

20 Civ. 9362 (JMF)

and

ASSOCIATION OF HOME APPLIANCE
MANUFACTURERS, and AIR-
CONDITIONING, HEATING &
REFRIGERATION INSTITUTE,

Plaintiff-Intervenors,

v.

JENNIFER M. GRANHOLM, as Secretary Of
The United States Department Of Energy, and
UNITED STATES DEPARTMENT OF
ENERGY,

Defendants.

WHEREAS, on October 30, 2020, Plaintiffs Natural Resources Defense Council, Center for Biological Diversity, Consumer Federation of America, Massachusetts Union of Public Housing Tenants, Public Citizen, and Sierra Club (collectively “Public Interest Plaintiffs”) filed a complaint in the United States District Court for the Southern District of New York (“Court”) against Defendants Jennifer Granholm, in her official capacity as United States Secretary of Energy, and the United States Department of Energy (collectively “DOE”);

WHEREAS, on November 9, 2020, Plaintiffs States of New York, California, Colorado, Connecticut, Illinois, Maine, Maryland, Minnesota, New Jersey, Oregon, Vermont, Washington, the Commonwealth of Massachusetts, the People of the State of Michigan, the District of Columbia, and the City of New York (collectively “State Plaintiffs”) filed a complaint in the Court against DOE;

WHEREAS on January 29, 2021, State Plaintiffs filed an amended complaint to include as additional state plaintiffs the Commonwealth of Pennsylvania and the States of New Mexico and Nevada;

WHEREAS, on March 23, 2021, the Court entered a Stipulation and Order (the “Intervention Stipulation”) permitting the Association of Home Appliance Manufacturers and Air-Conditioning, Heating & Refrigeration Institute (collectively, “Plaintiff-Intervenors”) to participate, with specified conditions, as Plaintiff-Intervenors in these two civil actions, Dkt. No. 34, 20 Civ. 9127, Dkt. No. 53, 20 Civ. 9362;

WHEREAS, Plaintiff-Intervenors filed a Complaint in Intervention in each of these actions on March 26, 2021, Dkt. No. 35, 20 Civ. 9127, Dkt. No. 55, 20 Civ. 9362;

WHEREAS, on September 22, 2022, the Court entered a consent decree (the “Consent Decree”) between and among the Public Interest Plaintiffs, the State Plaintiffs, the Plaintiff-Intervenors, and DOE, resolving the claims asserted in these actions, Dkt. No. 70, 20 Civ. 9127, Dkt. No. 102, 20 Civ. 9362;

WHEREAS, on January 10, 2024, the Court so-ordered a stipulation among the Public Interest Plaintiffs, the State Plaintiffs, the Plaintiff-Intervenors, and DOE to amend the Consent Decree to clarify the applicability of the terms of the Consent Decree to direct final rules issued pursuant to 42 U.S.C. § 6295(p)(4), Dkt. No. 77, 20 Civ. 9127, Dkt. No. 111, 20 Civ. 9362;

WHEREAS, under the terms of the Consent Decree, DOE was required to sign and post on DOE’s publicly accessible website an Agency Action Document, as that term is defined in Paragraph 4 of the Consent Decree, for the product category of Residential Water Heaters by April 30, 2024, and on April 30, DOE posted a signed Agency Action Document for this product category, *see* Dkt. No. 78, 20 Civ. 9127, Dkt. No. 114, 20 Civ. 9362;

WHEREAS, although in the Agency Action Document for the product category of Residential Water Heaters posted on April 30, 2024, DOE finalized standards for most residential water heaters, DOE stated it was still evaluating amended standards for gas-fired instantaneous water heaters, *see* Dkt. No. 78, 20 Civ. 9127, Dkt. No. 114, 20 Civ. 9362;

WHEREAS, under the terms of the Consent Decree, DOE is required to sign and post on DOE's publicly accessible website an Agency Action Document, as that term is defined in Paragraph 4 of the Consent Decree, for the product category of Commercial Refrigeration Equipment by November 30, 2024;

WHEREAS, DOE requires additional time to complete the actions necessary to sign and post on DOE's publicly accessible website an Agency Action Document for gas-fired instantaneous water heaters in the product category of Residential Water Heaters, and an Agency Action Document for the product category of Commercial Refrigeration Equipment;

WHEREAS, after discussions between and among the Public Interest Plaintiffs, the State Plaintiffs, the Plaintiff-Intervenors, and DOE, the parties agree to further amend the Consent Decree to adjust two deadlines;

IT IS HEREBY STIPULATED AND AGREED, by and between the Public Interest Plaintiffs, the State Plaintiffs, and DOE, as follows:

1. The deadlines for the following product categories as set forth in Paragraph 4 of the Consent Decree are hereby amended as follows:

<i>Product Category</i>	<i>Deadline</i>
Residential Water Heaters <ul style="list-style-type: none"> Gas-fired instantaneous water heaters All other residential water heaters 	<ul style="list-style-type: none"> December 16, 2024 April 30, 2024¹
Commercial Refrigeration Equipment	December 30, 2024

2. The Consent Decree, and all other terms contained therein, remains effective.

3. The Public Interest Plaintiffs, the State Plaintiffs, the Plaintiff-Intervenors, and DOE understand and agree that this Stipulation contains the entire agreement between them, and

¹ DOE has already met this deadline. *See* Dkt. No. 78, 20 Civ. 9127, Dkt. No. 114, 20 Civ. 9362.

that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between these parties or their counsel that are not included herein shall be of any force or effect.

4. This Stipulation is subject to the approval of the Court. In the event that the Court does not approve this Stipulation, it shall be null and void, with no force or effect.

SO ORDERED:



THE HONORABLE JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE

Dated: September 25, 2024

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² Pursuant to S.D.N.Y. ECF Rule 8.5(b), all parties have granted consent to electronically sign this consent decree.

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